

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

BURTON BRAXTON HAGWOOD

Plaintiff,

v.

**Civil Action no. 2:06cv115
(Judge Maxwell)**

BOP,

Defendants

**REPORT AND RECOMMENDATION
THAT CASE BE DISMISSED WITHOUT PREJUDICE**

On December 4, 2006, the *pro se* plaintiff, Burton Hagwood, initiated this case by filing an application for a Temporary Restraining Order and Preliminary Injunction. A review of the file demonstrated that the Plaintiff had not paid the \$350.00 filing fee nor filed an Application to Proceed With Prepayment of Fees. Therefore, on December 4, 2006, the Clerk sent the Plaintiff a Notice of Deficient Pleading with a warning that his failure to pay the filing fee or submit the required forms within 30 days could result in dismissal of his case without prejudice. As of May 3, 2007, the plaintiff has failed to comply with the notice and has not asked for additional time within which to comply.

RECOMMENDATION

In consideration of the foregoing, it is recommended that the application be **DISMISSED** without prejudice.

Any party may file within ten (10) days of the date of this Recommendation, with the Clerk of the Court, written objections identifying the portions of the Recommendation to which objections are made, and the basis for such objections. A copy of such objections should also be submitted to the Honorable Robert E. Maxwell, United States District Judge. Failure to timely file objections to

the Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985).Wright v. Collins, 766 f.2d 841 (4th Cir 1985)United States v. Schronce, 727 F.2d 91 (4th Cir. 1984); cert. Denied, 467 U.S. 1208 (1984).

The Clerk of the Court is directed to mail a copy of this Report and Recommendation to the *pro se* petitioner and any counsel or record, as applicable.

DATED: May 3, 2007

/s/ James E. Seibert

JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE